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**UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

SEA PRESTIGIO, LLC, a Delaware limited  
 liability company,

Plaintiff,

vs.

M/Y TRITON, Republic of Marshall Islands  
 (Official No. 70070), Its Engines, Machinery,  
 Appurtenances, etc., *In Rem*; SPEARFISH  
 VENTURES, LTD., a British Virgin Islands  
 Company; FBP INVESTMENTS, LP, a  
 Delaware limited partnership; JAMES P.  
 BALDWIN, as co-trustee of the James P.  
 Baldwin Trust No. 1 and Nancy L. Baldwin  
 Trust No. 1; NANCY L. BALDWIN, as  
 co-trustee of the James P. Baldwin Trust  
 No. 1 and Nancy L. Baldwin Trust No. 1;  
 CACHAL INVESTMENTS, S. DE R.L.  
 DE C.V., a Mexican corporation, *In*  
*Personam*, and DOES 1-10,

Defendants.

Case No.: 3:10-CV-02412-BTM (MDD)

**IN ADMIRALTY**

**DEFENDANTS' STATUS REPORT  
 REGARDING STATE ACTION,  
 PURSUANT TO THIS COURT'S  
 ORDER GRANTING STAY  
 APPLICATION**

Judge: Hon. Barry T. Moskowitz

Action Filed: 11/23/10

**I. INTRODUCTION**

Defendants, M/Y Triton, *et al.* ("Federal Defendants"), submit this status report pursuant to this Court's Order granting the Federal Defendants' application to stay this action, dated April 11, 2011. This action was stayed pending resolution of the previously filed action in Orange County Superior Court, which involves the same parties and issues as the instant action ("the State Action"). The stay order requires all parties to file a status report regarding the State Action every three months from the date of the Order. In short, the State Action is progressing as anticipated, with a trial date set for February 27, 2012.

**II. STATUS OF STATE ACTION**

**A. STATE ACTION BACKGROUND**

On October 27, 2010, FBP Investments, LP, Spearfish Ventures, LTD, and Cochall Investments, S. de R.L. de C.V. -- defendants in this action -- filed the State Action against the plaintiff in this action, Sea Prestigio, LLC, and related parties ("Sea Prestigio"). The State Action alleges claims for usury, breach of contract (a loan agreement), breach of covenant of good faith and fair dealing, inducing breach of contract, intentional interference with contractual relations, false promise, and various declaratory relief claims.

Thereafter, on November 23, 2010, in response to the State Action, Sea Prestigio filed this action against the Federal Defendants, seeking primarily to foreclose on a ship mortgage, and alleging default of the parties' loan agreement. On November 29, 2010, the Sea Prestigio filed a notice to remove the State Action to the U.S. District Court for the Central District of California. However, on January 31, 2011, the Central District remanded the State Action to Orange County Superior Court. On April 11, 2011, this Court issued an Order granting a stay of this action pending resolution of the previously filed State Action.

**B. CURRENT STATUS OF THE STATE ACTION**

The State Action has progressed since this action was stayed, and is set for trial on February 27, 2012. On May 9, 2011, Federal Defendants filed a first amended complaint in the State Action. On or about June 28, 2011, Sea Prestigio answered the amended complaint and filed a cross-complaint in the State Action. The Federal Defendants answered the cross-complaint on about July 28, 2011. In

1 addition, the parties have completed written discovery, and have exchanged expert witness information.

2 Further, on August 17, 2011, the parties filed cross-motions for summary judgment/adjudication  
 3 on both the amended complaint and Sea Prestigio's cross-complaint. The motions were heard on  
 4 November 3, 2011. The trial court in the State Action denied the majority of the motions. In short, all  
 5 material causes of action in both the amended complaint and cross-complaint survived summary  
 6 judgment, and all parties remain in the action.

7 Accordingly, the trial in the State Action is set to commence on February 27, 2012. The parties  
 8 are diligently preparing the action for trial.

### 9 **III. CONCLUSION**

10 The State Action is moving promptly toward trial and final judgment, and no action is required  
 11 by the Court at this time.

12 January 4, 2012

Respectfully submitted,

13 Attorneys for Defendants M/Y Triton, *et al.*  
 14 Gatzke Dillon & Ballance LLP

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### 22 **CERTIFICATE OF SERVICE**

23 The undersigned hereby certifies that all counsel who have consented to electronic service are  
 24 being served with a copy of the foregoing document via the Southern District of California CM/ECF  
 25 system on January 4, 2012.

26 /s/ Mark J. Dillon  
 27 Mark J. Dillon  
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